

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DANIEL LEE,

Plaintiff,

Case No. 2:20-cv-13060

v.

Hon. Arthur Tarnow

UAW RETIREE MEDICAL
BENEFITS TRUST,

Defendant.

JOINT MOTION TO ADJOURN SCHEDLING ORDER DATES

The parties to the above captioned matter jointly move the Court to adjourn the Scheduling Order dates currently in effect, and in support state as follows:

1. Plaintiff Daniel Lee has sued his former employer, Defendant UAW Retiree Benefits Trust, asserting claims for breach of contract, retaliation under Title VII and the Elliott Larsen Civil Rights Act, and defamation, resulting from the Trust's use of the title "Manager" on the Form 990 it filed for its 2017 fiscal year.

2. The parties and their counsel have been working diligently to litigate this matter, but have encountered a number of unforeseen circumstances which make completion of discovery in this matter by the current discovery cutoff of October 1, 2021. Specifically:

(a) Plaintiff's request for production led to the production of over 3,000 documents, many of them multiple pages in length, that took longer

than expected to produce (due to the privilege review that was necessary) and to review (given the volume of information provided).

- (b) Plaintiff's production likewise was longer than anticipated, exceeding 3,000 pages in length, which took longer to produce and review than originally anticipated.
- (c) Plaintiff has also identified a large number of companies at which he alleges that he has sought employment/business opportunities that might have been harmed as a result of the Form 990 filing, resulting in the Trust having to contact large number of potential witnesses to investigate the veracity of Plaintiff's claim.
- (d) While the parties have worked amicably throughout this litigation, one dispute has arisen that led to a motion being filed to resolve whether Plaintiff's medical information is subject to discovery. That motion is fully briefed and awaiting decision by the Court, but until it is resolved (and medical records are potentially subpoenaed), it is not possible to complete Plaintiff's deposition.
- (e) Expert testimony is required in this case to address to degree to which listing Plaintiff as a "manager" rather than a "director" may have damaged his job prospects and/or ability to secure a clear U-4 registration from FINRA. Experts have been retained by both sides,

but the current scheduling order does not set a timeline for submission of Rule 26 expert reports or otherwise contemplate the use of expert testimony.

(f) The parties also wish to engage experts to testify regarding damages Plaintiff is alleged to have suffered and have retained experts for that purpose as well. However, to avoid unnecessarily incurring costs, the parties would like to put a discovery schedule in place permitting discovery on damages issues for a reasonable period after the dispositive motion filing cutoff. While ultimately that schedule may not totally avoid unnecessary costs, it may help to do so depending on the timing of a decision on any eventual dispositive motion.

3. Before filing this motion, the parties discussed a revised schedule, taking into account the discovery that needs to be completed, and agreed that the following revised schedule would be workable:

Plaintiff's Rule 26 Expert Disclosures (Liability): November 5, 2021

Defendant's Rule 26 Expert Disclosures (Liability): January 7, 2022

Discovery Motion Cutoff: January 7, 2022

Discovery Cutoff: February 4, 2022

Dispositive Motion Cutoff: March 4, 2022

Plaintiff's Rule 26 Disclosures (Damages): March 21, 2022

Defendant's Rule 26 Disclosures (Damages): May 20, 2022

Trial Term: July 2022; Joint Final Pretrial Order date and Joint Final Pretrial Conference Date to be Determined by the Court.

4. The parties therefore jointly move for an Order adjourning the current Scheduling Order, and entering a new Scheduling Order following the above dates. A proposed Order is attached to this Motion as Exhibit A.

Respectfully Submitted:

SALVATORE PRESCOTT PORTER
& PORTER, PLLC

DYKEMA GOSSETT PLLC

By: /s/Hideaki Sano (w/consent)

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Date: August 23, 2021

CERTIFICATE OF SERVICE

I hereby certify that on August 23, 2021, I caused the foregoing paper to be electronically filed with the Clerk of the Court via the court's e-filing system which will send notification of such filing to all counsel of record.

By: /s/ James F. Hermon

James F. Hermon (P53765)

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Exhibit A

UNITED STATES DISTRICT COURT
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Hon. Arthur Tarnow

UAW RETIREE MEDICAL
BENEFITS TRUST,

Defendant.

**ORDER ADJOURNING SCHEDULING ORDER DATES AND SETTING
NEW SCHEDULE**

The parties to the above captioned matter having jointly moved for such relief, and the Court being otherwise advised of the premises, IT IS HEREBY ORDERED THAT the Court's March 3, 2021 Scheduling Order is adjourned as follows:

Plaintiff's Rule 26 Expert Disclosures (Liability): November 5, 2021

Defendant's Rule 26 Expert Disclosures (Liability): January 7, 2022

Discovery Motion Cutoff: January 7, 2022

Discovery Cutoff: February 4, 2022

Dispositive Motion Cutoff: March 4, 2022

Plaintiff's Rule 26 Disclosures (Damages): March 21, 2022

Defendant's Rule 26 Disclosures (Damages): May 20, 2022

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Dated:

ARTHUR J. TARNOW
UNITED STATES DISTRICT JUDGE

Detroit, Michigan

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